

COMMITTEE ROOM,
AUSTIN, February 28, 1889.

Hon. T. B. Wheeler, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared

Substitute Senate bill No. 280, entitled "An act to regulate civil actions for libel, slander and defamation of character,"

And find the same correctly engrossed.

CRANFORD,
Chairman.

COMMITTEE ROOM,
AUSTIN, February 28, 1889.

Hon. T. B. Wheeler, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 151, being "An act to amend sections 2, 3 and 5 of an act in relation to chattel mortgages and other instruments intended to operate as mortgages of or liens upon personal property and the record thereof, approved April 22, 1879,"

And find the same correctly engrossed.

CRANFORD,
Chairman.

COMMITTEE ROOM,
AUSTIN, February 28, 1889.

Hon. T. B. Wheeler, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 220, being "An act to amend article 218 of the Penal Code of the State of Texas,"

And find the same correctly engrossed.

CRANFORD,
Chairman.

On motion of Senator Armistead, Senate adjourned until 10 o'clock tomorrow morning.

FORTY-THIRD DAY.

SENATE CHAMBER,
AUSTIN, March 1, 1889.

Senate met pursuant to adjournment.

Lieutenant-Governor Wheeler in the chair.

Roll called.

Quorum present.

Prayer by the Chaplain, Dr. Smoot.

On motion of Senator Davis,

The reading of the Journal of yesterday was dispensed with.

On motion of Senator Armistead,

Senator McDonald was excused until Monday, on account of important business.

PETITIONS AND MEMORIALS.

By Senator Cranford:

Petition of seventy-eight citizens of Camp county, consisting of merchants, business men and farmers, opposing a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Sims:

Petition of citizens of Shackelford county, favoring a railroad commission.

Referred to Committee on Internal Improvements.

Resolution of Jones County Farmers' Alliance, favoring a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Armistead:

Petition of county and precinct officers of Marion county, asking the Legislature to purchase and distribute Sayles' Civil and Willson's Criminal Statutes.

Referred to Judiciary Committee No. 1.

By Senator Abercrombie:

Two petitions of citizens of Harris county, opposing a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Claiborne:

Petition of county officers of Matagorda county, asking the Legislature to purchase and distribute Sayles' Civil and Willson's Criminal Statutes.

Referred to Judiciary Committee No. 1.

By Senator Upshaw:

Petition of citizens of Ellis county, opposing a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Simkins:

Petition of fifty-two citizens of Navarro county, opposing a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Frank:

Petition of county and precinct officers of Palo Pinto county, asking the Legislature to purchase and distribute Sayles' Civil and Willson's Criminal Statutes.

Referred to Judiciary Committee No. 1.

By Senator Burges:

Petition of county and precinct officers of Karnes county, asking the Legislature to purchase and distribute Sayles' Civil and Willson's Criminal Statutes.

Referred to Judiciary Committee No. 1.

By Senator Jarvis:

Petition of citizens of Fort Worth, protesting against giving the power to municipal corporations to regulate charges of other corporations.

Referred to Committee on Internal Improvements.

By Senator Atlee:

Petition of county officers of Hidalgo county, asking the Legislature to purchase and distribute Sayles' Civil and Willson's Criminal Statutes.

Referred to Judiciary Committee No. 1.

By Senator Ingram:

Petition of county officers of Shelby county, requesting the same.

Referred to Judiciary Committee No. 1.

By Senator Seale:

Petition of county officers of Polk county, requesting the same.

Referred to Judiciary Committee No. 1.

Petition of citizens of Hardin county, opposing a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Frank:

Petition of seventy-one citizens of Erath county, opposing a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Davis:

Petition of county officers of Houston county, asking the Legislature to purchase and distribute Sayles' Civil and Willson's Criminal Statutes.

Referred to Judiciary Committee No. 1.

By Senator Frank:

Petition of twelve citizens of Erath county, opposing a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Stephens:

Petition of citizens of Hardeman county, praying for the passage of the Senate bill known as the excess school land bill.

Referred to Committee on Public Lands.

By Senator Woodward:

Petition of county officers of Calhoun county, asking the Legislature to purchase and distribute Sayles' Civil and Willson's Criminal Statutes.

Referred to Judiciary Committee No. 1.

Resolution of the Farmers' Alliance of Mission Valley, Victoria county, favoring a railroad commission, an occupation tax and opposing the bond system for public roads.

Referred to Committee on Internal Improvements.

By Senator Upshaw:

Petition of citizens of Hill county, opposing a railroad commission.

Referred to Committee on Internal Improvements.

By Senator Sims:

Petition of citizens of Brown county, protesting against being exempted from the hide and annual inspection law.

Referred to Committee on Stock and Stockraising.

Petition of county officers of Shackelford, Coleman and Reeves counties, asking the Legislature to purchase and distribute Sayles' Civil and Willson's Criminal Statutes.

Referred to Judiciary Committee No. 1.

REPORTS OF STANDING COMMITTEES.

By Senator Burges:

COMMITTEE ROOM,
AUSTIN, March 1, 1889.

Hon. T. B. Wheeler, President of the Senate:

Your Committee on Public Lands, to whom was referred,

Senate bill No. 269, entitled "An act to validate certain surveys which for any reason might be deemed invalid, and to authorize the Commissioner of the General Land office to issue patents therefor,"

Have had the same under consideration, and instruct me to report it back to the Senate with the recommendation that it do pass.

All of which is respectfully submitted.

BURGES,
Chairman.

Bill read first time.

Senator Burney sent up the following free conference committee report:

COMMITTEE ROOM,
AUSTIN, February 28, 1889.

Hon. T. B. Wheeler, President of the Senate, and Hon. F. P. Alexander, Speaker of the House of Representatives:

Your free conference committee, appointed by both houses of the Twenty-first Legislature, to settle the differences between the two houses on

Substitute House bill No. 21, entitled "An act to make valid and to confirm certain contracts of sale made by the Land board of the State of Texas, made with divers persons, for the sale of certain of the free school, university and asylum lands of the State of Texas, sold under the act of the Legislature of the State of Texas, approved April 12, 1883,"

Respectfully report that they have had the same under consideration, and submit an accompanying substitute for House bill No. 21, and all amendments, and recommend its adoption in lieu thereof.

BURNEY,
FRANK,
LANE,
STEPHENS,
For Senate.
STRONG,
MCGAUGHEY,
BROWN,
WHATLEY,
CONNELLEE,
For House.

SUBSTITUTE FOR SUBSTITUTE HOUSE BILL NO. 21.

A bill to be entitled "An act to make valid and to confirm certain contracts of sale made by the Land Board of the State of Texas with divers persons for the sale of certain of the free school, University and asylum lands of the State of Texas, sold under the act of the Legislature of the State of Texas, approved April 12, 1883."

WHEREAS, The Land Board of the State of Texas, duly appointed for that purpose, did make contracts un-

der the act of April 12, 1883, for the sale to certain persons of divers of the free school, University and asylum lands of this State; and

Whereas, Many of such persons, acting in good faith, believing that the said contracts were valid and binding and secured to them the right to acquire valid titles to said lands by a compliance therewith, have paid to the State a part of the purchase price of the said lands, and interest on the amount of the said contract price for several years; and

Whereas, It has been found that the said contracts were made by the said Land Board in many instances without a strict compliance with the requirements of the said law, whereby the said contracts are rendered invalid and said purchasers have failed to acquire any right under the said purchases and contracts so made; and

Whereas, It is inequitable and unjust that the said parties so acting in good faith, who have complied with their said contracts, should be deprived of their equities so attempted to be acquired, and which the State in good faith intended to confer upon them, by reason of the failure of the said Land Board to comply with the technical requirements of said law, and thus lose the benefit of what they have paid on said contracts, and be deprived of the said lands; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That all contracts made by the Land Board of the State of Texas for the sale of the free school, University and asylum lands, under the act of April 12, 1883, to any person who has in good faith made said purchase, and in good faith has complied with all the requirements of the said act, the rules and regulations of the State Land Board, and the terms and conditions of the said contract, shall be and are hereby made valid and binding upon the State in the same manner as if the said Land Board had in all particulars complied with the requirements of the law.

Section 2. This act shall not apply to any person or persons who have failed to make a bona fide settlement upon the said land in such case as by the terms of his contract or the requirements of said Land Board settlement was required, nor to any person or persons who entered into such contracts of purchase under the agreement or promise on their part that actual settlement should be made thereon, unless he or they have made such ac-

tual settlement in good f
quired.

Section 3. The titles of all vendees or assignees who, on the first day of January, 1889, were actual bona fide settlers upon any land purchased from the aforesaid Land Board, holding said land under deed or regular chain of title from the original purchasers, and who are still residing upon said land, in cases where the original purchaser failed to comply with the law and the requirements of said Land Board as to settlement and occupancy, but where the actual instalments of interest have been paid, are hereby validated and confirmed; provided, the provisions of this section shall not refer to nor include more than one section of agricultural or three sections of grazing land.

Section 4. All patents heretofore issued for any lands sold by the State Land Board, under the act of April 12, 1883, are hereby validated.

Section 5. The unsettled condition of the title to the land as aforesaid, and the injustice to many citizens that has or may flow from the failure of said Land Board to comply with the requirements of the law in making said sales create an imperative public necessity and an emergency which authorizes the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended, and this act will take effect from and after its passage.

On motion of Senator Lane,
The report was adopted.

Senator Sims gave notice of his intention to file a minority report on substitute House bill No. 21.

Senator Tyler sent up the following joint committee report:

COMMITTEE ROOM,
AUSTIN, March 1, 1889.

Hon. T. B. Wheeler, President of the Senate, and Hon. F. P. Alexander, Speaker of the House of Representatives:

SIRS—Your joint committee appointed to consider and report upon the memorial of John M. Swisher have had the same under consideration, and a majority of said committee beg leave to report as follows:

First. It appears from the evidence adduced before us that the memorialist, Colonel John M. Swisher, with a laudable ambition to secure a substantial benefit to the Texas veterans who have secured certificates for 1280 acres of land each under the provis-

ions of the act of March 15, 1881, and at the same time to secure to Texas the jurisdiction of the territory known as Greer county, undertook to locate and procure patents on said certificates for the veterans in Greer county upon the following terms and conditions substantially: Colonel Swisher contracted to locate and procure the patents at his own expense for one-half the land, and also advanced to each veteran, when desired, a loan of two hundred dollars, the then market price of such certificates, the veteran having the option, after the location was made and the field notes were returned to the Land Office, of repaying the loan with ten per cent interest or of receiving an additional sum of fifty dollars in full payment for the certificate. This contract was properly set forth in the writings between the parties, which included a transfer of the certificate to Colonel Swisher and an obligation from the latter to the veteran. Under these contracts Colonel Swisher located a number of veteran certificates in Greer county, and returned the field notes to the Land Office; but the veterans, instead of repaying the loans received, preferred to enter into a further contract with Colonel Swisher, by which the latter was to take out patents in his own name to these lands, one-half for himself and the other half to be sold and the proceeds, after deducting said loan with interest, to be paid over to the veteran. Those veterans who received no loan received the patent to one-half the land, the other half being patented to Colonel Swisher to compensate him for the location. The sale of the land was prevented by the entrance by other parties of veteran certificates in Greer county and subsequent litigation by those parties with the State. In all these transactions, it appears to us, Colonel Swisher acted in good faith and was actuated by honorable and upright motives. And it further appears that in making the locations in Greer county he had the encouragement, at least, of the Governor and Commissioner of the General Land Office, both of whom it seems, concurred with Colonel Swisher in construing the act of March 15, 1881, to authorize the location of this class of certificates in any of the public debt reservations of the State.

Second. We find that the memorialist, Colonel John M. Swisher, is entitled to credit and to the favorable consideration of his countrymen for reviving the claim of Texas to Greer

county which had been dormant since about 1860, when at the suggestion of Governor Sam Houston, the Legislature created the county under the name of Greer, and assigned it to the proper judicial, land and other districts of Texas.

The claim of the United States, that the joint boundary survey of 1860 had settled the question against Texas had generally been acquiesced in as historically correct, and would perhaps never have been questioned again. But fortunately for Texas, Colonel Swisher's investigations led him to a correspondence with Judge William H. Russell, the commissioner appointed by Governor Houston to represent Texas in said joint boundary survey of 1860, and this correspondence brought to light, for the first time, the fact that there was not, in fact, any joint survey of the boundary between Texas and the United States, nor any joint report settling such boundary. Armed with this and other proofs, documentary and otherwise, Colonel Swisher repaired to Washington City in 1882, laid the results of his investigations before the Department of the Interior and the Commissioner of the Land Office of the United States. About this time Judge Russell died, and, in order to perpetuate his testimony, Colonel Swisher embodied his correspondence with Judge Russell in a memorial to Congress, which was, on March 21, 1882, presented by the Hon. Columbus Upson, of Texas, and at the latter's request was printed at large in the Journal of the House of Representatives. [See Congressional Record, Forty-seventh Congress, first session, page 20.] The Interior Department, as a result of Colonel Swisher's showing, receded from its claim, hitherto made, that this boundary question had been settled by the joint commission of 1860, and the question was reopened, and the joint commission of 1886 was constituted by reciprocal acts of Congress and of our Legislature.

While this last commission failed to agree upon a settlement of the question, still no candid man can deny that Texas is in a much better position with reference to this valuable territory than when Colonel Swisher undertook his scheme, and in view of the death of Judge Russell, who was perhaps the only witness Texas had then living to disprove the claim of the United States to a joint survey and joint report in 1860, we think history will accord to Colonel Swisher alone the credit for having re-opened

this question. It is not germane to the question before this committee to discuss the merits of the claim of Texas to Greer county, but we have necessarily had the same under very full review in the consideration of the memorial referred to us, and we deem it not improper to express the unanimous and unqualified opinion of this committee that Texas has a clear and unquestionable title to Greer county and ought to assert her title in every just and lawful manner.

Third. We find that the charge heretofore made in some quarters that Colonel Swisher was the agent or manager of a speculative syndicate in the pursuit of his purposes as above set forth is unfounded and unjust, but, on the other hand, his faith in the justness of our title to Greer county and his untiring zeal in its prosecution has cost him about all of his property, once a sufficiency to have supported him comfortably in his old age, and that in all his efforts he had the confidence and approval of his fellow veterans, which he still retains.

Fourth. At the suit of the Attorney-General, the Supreme Court of Texas held the location of the veteran certificates in Greer county invalid, the same having been reserved by the act of February 5, 1879, one-half for the permanent school fund and one-half for the public debt, and the veterans were allowed by the act of April 1, 1887, to surrender their patents for cancellation and receive new certificates, which the most of them did, but there being no public domain not reserved from location (except a few scraps here and there), the certificates are almost worthless. There is no question of the power of the Legislature to reopen the public debt reservation to the location of these certificates.

We believe that the same policy which actuated the Legislature in making this donation to the veterans of Texas in the first instance would call for some action at this time to make the donation a substantial benefit to the grantees. To remand them to the public debt reservation of Greer county, after their efforts to locate there were thwarted by the courts and their patents cancelled by the Twentieth Legislature, and when most of the veterans have attained to such an age that but few, if any of them, will live to see the end of the dispute between Texas and the United States, would add another and a base example of the ingratitude of republics.

We therefore recommend that the original grantees of all certificates issued under the several veteran acts, the veterans or their heirs only, be allowed to locate the same upon any of the public debt reservation in the State, and that the provisions of the act of April 1, 1887, which expired January 1, 1889, be extended to January 1, 1890, to enable those who have not heretofore surrendered their patents to land in Greer county to do so and take the benefit of the legislation herein recommended, should the same be adopted.

Your committee have embodied the legislation they deem necessary in a bill herewith submitted, and they recommend the passage of the same.

All of which is respectfully submitted.

TYLER,
STEPHENS,
SEALE,
For Senate.
HAMBY,
MCCOMB,
DUNLAP,
For House.

The following is the bill recommended by the committee, and requested to be printed in the Journal, to-wit:

COMMITTEE SUBSTITUTE.

A bill to be entitled "An act to provide for the location of certain land certificates heretofore issued to indigent veterans and surviving soldiers of the Texas Revolution and others, and the issuance of patents in such cases and other cases."

Section 1. Be it enacted by the Legislature of the State of Texas, That all valid outstanding land certificates which are still the property of the original grantees thereof, or of their heirs only, and which have never been sold, alienated or assigned by said original grantees or their heirs, and issued under the provisions of an act of April 20, 1879, granting a land certificate of six hundred and forty acres to each of the indigent veterans who was engaged in the struggle for Texas independence prior to and at the battle of San Jacinto, enrolled under the act approved July 28, 1876, and all valid outstanding land certificates which are still the property of the original grantees thereof or of their heirs only, and which have never been sold, alienated or assigned by said original grantees or their heirs and issued under the provisions of an

act approved March 15, 1881, granting a land certificate of twelve hundred and eighty (1280) acres to each of the surviving soldiers of the Texas revolution and the surviving signers of the declaration of Texas independence, and to the surviving widows of such soldiers and signers, and to the widows of those fell at the Dawson massacre, and to repeal an act approved April 26, 1879, entitled an act granting a land certificate of six hundred and forty acres to each of the indigent veterans who was engaged in the struggle for Texas independence prior to and at the battle of San Jacinto, enrolled under the act approved July 28, 1876, and all valid outstanding land certificates which are still the property of the original grantees thereof or of their heirs only, and which have never been sold, alienated or assigned by such original grantees or their heirs, and issued under the provisions of an act to authorize the holders and owners of patents issued to lands in Greer county and other reservations to surrender their patents for cancellation and to authorize the Commissioner to issue new certificates in such cases, approved April 1, 1887, may be located upon any of the vacant public domain of the State, and no law now in force reserving from location any of the public domain shall be a bar or impediment to the location of same.

Section 2. All locations heretofore made in any reservation by virtue of any certificate issued under the provisions of the above recited acts, the titles to which locations are still in the name of the original grantee of the certificate, as above provided in the case of certificates, are hereby validated, and the Commissioner of the General Land Office is hereby authorized and directed to issue patents for the same.

Section 3. All patents to lands in Greer county heretofore issued by virtue of certificates issued under the provisions of the two acts first above recited, and which have not been canceled, are hereby validated unless the original grantee of such patent or his or her heirs shall elect to surrender and have said patent cancelled under the provisions of the above recited act, approved April 1, 1887, which are hereby extended to the first day of January, 1890. Provided, that this act shall not interfere with the rights of any actual settler.

Section 4. All laws in conflict with this act are hereby repealed.

At the request of Hon. Alvin C.

Owsley, Senator Tyler sent up the following minority report:

COMMITTEE ROOM,
AUSTIN, March 1, 1889.

To the Honorable, the Senate and House of Representatives of the State of Texas:

GENTLEMEN—As one of your joint committee appointed to consider and report upon the memorial of Colonel John M. Swisher, who has with the other honorable members of the committee had the same under consideration, for the reason that I cannot concur with the majority in their findings and recommendations, I respectfully submit the following minority report:

First. It appears to me from the evidence before the committee that the memorialist, Colonel John M. Swisher, after the passage of the act of 1881, authorizing the issuance of veteran certificates, conceived the idea of calling in the aid of certain capitalists in New York and forming a syndicate to locate veteran certificates in Greer county.

At that time many certificates were being hawked about on the market at a low figure, and many veterans, not understanding the law or knowing how to locate their certificates, were at the mercy of land agents and others who were not too scrupulous, and the plan conceived by Colonel Swisher was really intended to be in the interest of the veterans as well as himself. He sent out circulars notifying veterans of his proposed plan of location, which is substantially set out in the majority report.

Many of the veterans, the exact number of whom I have not learned, placed their certificates in Colonel Swisher's hands to be located by him, as he proposed, and he took charge of them, as the majority report shows. The New York parties, however, failed to embark in the enterprise, and left Colonel Swisher without the expected aid of their money.

He then attempted on his own resources to carry out his plans, and made advancements of two hundred dollars each to a few of the veterans on their certificates, and took the other certificates to locate and get patented for one-half of the land. Under the contracts, Colonel Swisher located the certificates in his hands in Greer county, and had the field notes returned to the General Land Office, and many of the surveys were patented. None of the veterans returned to Colonel Swisher the advancement he had

made them, and those veterans who had secured no loan obtained patents to one-half the land their certificates called for, and the other half was patented to Colonel Swisher. In all of these transactions Colonel Swisher acted in good faith, and was actuated by upright and honorable motives, but at the same time it appears to me that he undertook the enterprise as a business venture for the mutual benefit of himself and the veterans who entrusted to him their certificates, and unfortunately failed. While it may be true that in making the locations in Greer county he had the encouragement of the Commissioner of the General Land Office and Governor of Texas then in office, Colonel Swisher, as well as every veteran for whom he acted, were charged with legal notice that these locations were illegal and void. The locations were made in open violation of the law then and still in force. Moreover it appears to me that Colonel Swisher had himself investigated the matter and found that he could not legally locate these certificates in Greer county.

In addition to the admission of Col. Swisher himself, that Governor O. M. Roberts had told him those certificates could not be located in Greer county, I find in the Greer county message of Governor Roberts, delivered to the Legislature on the tenth day of January, 1883, a statement to the effect that after the veteran certificates were issued, Colonel John M. Swisher, one of said veterans, interviewed him (Governor Roberts), as to the propriety and practicability of getting the Legislature to pass a law allowing the veteran certificates to be located in Greer county. No law authorizing such locations was ever passed, and if Colonel Swisher ever construed the act of March 15, 1881, to authorize the location of those veteran certificates in Greer county, such construction was too repugnant to the act itself, as well as all other laws of this State to raise an equity in his favor.

Second. I do find that Colonel John M. Swisher is entitled to much credit and the favorable consideration of all his countrymen for reviving the claim of Texas to Greer county. After undertaking to locate these certificates in Greer county he corresponded with various persons whom he supposed had any information on the subject; he visited Washington, plead the claims of Texas and urged a settlement; he procured valuable maps, reports and testimony necessary to establish the claims of Texas, and devoted

so much of his time and spent so much of his money in his endeavors to establish the title of Texas to Greer county, and thereby secure the same to Texas and the lands he located to himself and the other veterans, that with the failure of the enterprise he is financially ruined. In the words of Governor Roberts: "His faith in the justice of our claim never failed, while others doubted and despaired of its success." With the majority of the committee, I am fully satisfied that Greer county is a part of Texas, and I think Texas should assert her title in every just and lawful manner.

Third. I think Colonel Swisher undertook the location of the veteran certificates in Greer county as a business venture with the hope of bettering his fortune; that in his labors to prove the title to Greer county to be in Texas he was actuated by a very laudable desire to promote his own interest and the interest of the State.

That his contracts with the veterans were fair and honestly entered into, and he has endeavored in every honorable way to secure to the veterans their half of the lands and himself the other half, and that he merits and retains the confidence and approval of his fellow veterans.

Fourth. The patents and locations by virtue of the veteran certificates in Greer county having been made and issued in plain violation of law were held invalid by the Supreme Court of Texas. The Legislature on April 1, 1887, promptly passed a law authorizing the veterans who had thus located to surrender their patents and receive new certificates, and nearly all of them have availed themselves of the benefits of that act. The fact that there was then no public domain in Texas subject to location, except a few scraps here and there, and that others got good land, while Colonel Swisher was locating in Greer county, only goes to prove that it is better to locate land legally than illegally in Texas, and that those who located in Greer county in violation of law made a serious and deplorable mistake.

While the policy of the Legislature in donating these certificates to the veterans was doubtless to benefit the veterans, and manifest a love and esteem for them on the part of the people of Texas, I am of the opinion, from the testimony before the committee, that many land agents in Texas have made money out of the certificates while the veterans themselves have enjoyed but few blessings from the law, and the donation was, in very

few instances, of any substantial benefit to the grantees. It is certain, however, that when the certificates were issued, all the veterans stood upon an equal footing and were left free to dispose of them as they saw fit. We cannot now go back and see that each one used his to good advantage. Those who located illegally in Greer county certainly have no more claim against the State than those who located lawfully and got poor land or sold their certificates at a low price. The manner in which Texas has heretofore dealt with her veterans by making to them repeated grants of land, is a sufficient refutation on the part of Texas of the old slander that republics are ungrateful. If Texas yet owes anything to her veterans, and in my opinion they are entitled to our most serious consideration, the debt should be paid in such manner as will do equal and exact justice to all. It cannot be right to reward those who have violated the law at the expense of those who have obeyed it. I feel that Texas is under obligations to Colonel Swisher for his services in the Greer county matter, and that if ever the title to Greer county is settled and decided to be in Texas, she should and will do justice to him. I cannot, however, see any good reason for opening up a reservation outside of Greer county for the location of these certificates.

To recognize a claim of right in the holders of these certificates will be to say, in effect, that any man who illegally attempts to acquire land in Texas, thereby secures some kind of an equitable right that the Legislature will be bound to recognize. Such a precedent should not be laid. It will open the way for a flood of other land claims, with more equities, but less to arouse the sympathies, to pour in upon this and other succeeding Legislatures, and in my opinion it should not be done.

I have every feeling of kindness for Colonel Swisher, and admire the honest, manly course he has pursued in behalf of his fellow-veterans, yet, under the testimony, neither he nor those whom he represents have any legal or equitable claim against the State that any court could recognize. They have simply made a business venture and lost by reason of its failure, and while I sympathize with them in their misfortune, I feel that the State is under no more obligations to help them than it is other good men who have made mistakes and lost by reason thereof. The certificates were a pure donation

on the part of the State, and if these parties did not make as good use of them as they might have done, it is not the fault of the State.

I therefore cannot concur in the recommendations of the majority, and think that the bill recommended by them should not pass, and that all we can do, in justice to the people of Texas and ourselves, is to let Colonel Swisher and those whom he represents take their certificates and, as others have done, do the best they can with them.

All of which is respectfully submitted.

OWSLEY.

BILLS AND RESOLUTIONS.

By Senator Stephens:

A bill to be entitled "An act to attach the unorganized counties Ector, Upton and Crane to the organized county of Midland for judicial, surveying and other purposes, and to attach the unorganized counties of Andrews and Glasscock to the organized county of Martin for judicial, surveying and other purposes."

Referred to Committee on Judicial Districts.

By Senator Cranford:

A bill to be entitled "An act to amend an act entitled an act to require railroad companies to place and keep that portion of their roadbed and right of way over or across which public county roads may run in proper condition for the use of the traveling public, approved March 24, 1885."

Referred to Committee on Public Roads and Bridges.

By Senator Harrison:

A bill to be entitled "An act to amend an act, entitled an act to regulate the condemnation of property in cities and towns for the purpose of opening, widening or changing public streets, avenues or alleys, or for water mains or sewers, approved March 28, 1883, and the title thereof."

Referred to Judiciary Committee No. 1.

By Senator Burney:

"An act to amend the act creating the Thirty-fourth judicial district, and fixing the terms of court therein, and all acts amendatory thereof."

[The bill seeks to give the county of El Paso three terms of court per annum instead of two.]

Referred to Committee on Judicial Districts.

Senator Woodward asked to have the Journal corrected to show that resolutions from Atascosa County Farmers' Alliance, favoring a railroad commission, and

From DeWitt County Farmers' Alliance, favoring a railroad commission, were introduced by himself instead of by Senator Sims.

Journal corrected.

Senator Simkins sent up the following invitation:

UNIVERSITY OF TEXAS,
AUSTIN, March 1, 1889.

To the Hon. Lieutenant-Governor Wheeler, President of the Senate:

The faculty of the University of Texas respectfully tender through you an invitation to the Senators and officers of the Senate to be present at an exhibition of experiments and apparatus to be held under the direction of the professors of science, at the University this afternoon, from 3 to 7 o'clock.

I have the honor to be

Yours faithfully,

ALEX. MACFARLANE,
Chairman of Committee.

On motion of Senator Tyler,

The invitation was accepted.

Senate bill No. 220, a bill to be entitled "An act to amend article 218 of the Penal Code of the State of Texas,"

Was taken up and read the third time.

On motion of Senator Claiborne,

The bill was recommitted.

Senate bill No. 280, a bill to be entitled "An act to regulate civil actions for libel, slander or defamation of character,"

Was laid before the Senate, and

Read the third time and passed.

Senate bill No. 303, being "An act to restore and confer upon the county court of Wilson county the civil and criminal jurisdiction heretofore belonging to said court under the Constitution and general statutes of the State, to conform the jurisdiction of the district court of said county to such change and to repeal all laws in conflict with the provisions of this act," was laid before the Senate and read the third time.

Senator Woodward moved to add

Section 10. The great necessity for this law creates an imperative public necessity and emergency requiring the constitutional rule that bills be read on three several days in each house be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

The amendment was adopted by the following vote:

YEAS—27.

Abercrombie,	Jarvis,
Allen,	Johnson,
Armistead,	Kimbrough,
Atlee,	Lane,
Burges,	Maetze,
Burney,	Morris,
Clalborne,	Pope,
Cranford,	Seale,
Davis,	Sims,
Field,	Stephens,
Frank,	Townsend,
Glasscock,	Tyler,
Harrison,	Woodward.
Ingram,	

NAYS—none.

ABSENT—2.

Simkins, Upshaw.

The bill was passed by the following vote:

YEAS—27.

Abercrombie,	Jarvis,
Allen,	Johnson,
Armistead,	Kimbrough,
Atlee,	Lane,
Burges,	Maetze,
Burney,	Morris,
Clalborne,	Pope,
Cranford,	Seale,
Davis,	Sims,
Field,	Stephens,
Frank,	Townsend,
Glasscock,	Tyler,
Harrison,	Woodward.
Ingram,	

NAYS—None.

ABSENT—2.

Simkins, Upshaw.

Senator Morris moved to take up out of its regular order

Senate bill No. 28, and the substitute therefor, a bill to be entitled "An act to provide for revising, digesting and publishing the laws, civil and criminal of the State of Texas."

Lost.

The following message was received from the House:

HOUSE OF REPRESENTATIVES,
AUSTIN, March 1, 1889.

Hon. T. B. Wheeler, President of the Senate:

SIR—The House has passed substi-

tute House bills Nos. 245 and 279, a bill to be entitled "An act to prescribe the place and time of sale of all real estate hereafter to be sold under powers conferred by any deed of trust or contract lien."

Also House bill No. 354, a bill to be entitled "An act to amend article 1045 of chapter 7, title 26, of the Revised Civil Statutes."

W. M. IMBODEN,
Chief Clerk House of Representatives.

The President announced that the pending business was the railroad commission bill and that Senator Allen was entitled to the floor.

Senator Allen made a speech in favor of a railroad commission.

Senator Frank moved to suspend the pending business to take up out of its order

Substitute for House bills Nos. 474 and 478, a bill to be entitled "An act extending for ten years the payment of the principal of the purchase money for lands purchased under the two acts of the Legislature herein named."

Adopted.

The bill was laid before the Senate, and

Read the second time.

Senator Frank moved to

Amend section 2, line 3, by striking out the word "presented" in said line and insert in lieu thereof the word "prescribed."

Adopted.

The bill passed to its third reading.

On motion of Senator Frank,

The constitutional rule was suspended to put the bill on its third reading and final passage by the following vote:

YEAS—25.

Abercrombie,	Ingram,
Allen,	Jarvis,
Armistead,	Kimbrough,
Atlee,	Lane,
Burges,	Maetze,
Burney,	Morris,
Clalborne,	Seale,
Cranford,	Simkins,
Davis,	Stephens,
Field,	Tyler,
Frank,	Upshaw,
Glasscock,	Woodward.
Harrison,	

NAYS—None.

ABSENT—4.

Johnson,
Pope,

Sims,
Townsend.

The bill was read the third time and
Passed by the following vote:

YEAS—25.

Abercrombie,	Ingram,
Allen,	Jarvis,
Armistead,	Kimbrough,
Atlee,	Lane,
Burges,	Maetze,
Burney,	Morris,
Claiborne,	Seale,
Cranford,	Simkins,
Davis,	Stephens,
Field,	Tyler,
Frank,	Upshaw,
Glasscock,	Woodward.
Harrison,	

NAYS—None.

ABSENT—4.

Johnson,	Sims,
Pope,	Townsend.

On motion of Senator Allen,
Senate joint resolution No. 2, "Joint
resolution to amend section 11, article
16, of the Constitution of the State of
Texas,"

Was laid on the table, subject to
call.

On motion of Senator Atlee,
Senate bill No. 84, a bill to be en-
titled "An act for the relief of William
Evans for loss of schooner Josephine
and personal effects, incurred in the
quarantine service of the State of
Texas about the 18th October, 1887,"

Was laid before the Senate and

Read the second time with commit-
tee amendments.

The committee amendments were
adopted, and

The bill as amended was ordered
engrossed.

The President referred

House bill No. 354 to Judiciary Com-
mittee No. 1, and

Substitute House bill Nos. 245 and
279 to Judiciary Committee No. 1.

Senator Pope moved to adjourn till
2:30 p. m., and that Senator Jarvis be
allowed the floor when the Senate
met, to argue the railroad commission
bill.

The motion was adopted, and

The Senate adjourned till 2:30 p. m.

AFTERNOON SESSION.

Senate met pursuant to adjourn-
ment.

Lieutenant-Governor Wheeler in the
chair.

Roll called.

No quorum present.

The Sergeant-at-Arms was dis-
patched to bring in the absent Sen-
ators.

A sufficient number of Senators
having arrived to complete the quo-
rum,

The President announced a quorum
present, and

Senator Jarvis was entitled to the
floor to discuss the pending question,
the railroad commission bill.

With the permission of Senator Jar-
vis, and

On motion of Senator Burney,

House bill No. 436, a bill to be en-
titled "An act to grant a new charter
to the city of El Paso,"

Was laid before the Senate and

Read the second time.

Senator Burney offered the follow-
ing amendments:

Amend section 15, page 8, at its close,
after "elections," add: "During the
temporary absence or disability of any
officer the city council shall elect some
suitable person to discharge the du-
ties of the absent or disabled officer
until his return or removal of his dis-
abilities."

Amend section 28, in line 7, after
"courts," on page 14: "He shall attend
the sessions of the recorder's court,
either in person or by deputy, and
prosecute all persons charged with
offenses therein; and for which pur-
pose he may appoint a deputy."

Amend section 83, on page 26, line
16, after "city," by striking out "to
require that tracks, turn-outs and
switches shall be so constructed as to
interfere as little as possible with the
ordinary travel and use of the streets,
avenues and alleys," and insert in-
stead thereof, after "city," "provided,
that the provisions of this section
shall apply to railroads known as
steam railroads and not to city, street
or horse railroads."

Amend section 84, on same page,
line 3, after "repair," and strike out
"provided, that the provisions of this
section shall apply to railroads known
as steam railroads and not city, street
or horse railroads," and insert instead
thereof, after "repair," "to require
that tracks, turn-outs and switches
shall be so constructed as to interfere
as little as possible with the ordinary
travel and use of the streets, avenues
and alleys."

The amendments were adopted,
and

The bill passed to its third reading.

The President then announced that
the

SPECIAL ORDER,

The railroad commission bill, was again reached, and that Senator Jarvis was entitled to the floor to discuss the same.

Senator Jarvis spoke in opposition to the pending question, and

Senator Glasscock spoke in favor of it and yielded the floor with the understanding that he be allowed to conclude his argument to-morrow.

By leave, Senator Seale sent up for Senator Harrison the following committee report:

COMMITTEE ROOM,
AUSTIN, March 1, 1889.

Hon. T. B. Wheeler, President of the Senate:

Your Committee on General Land Office, to whom was referred

Senate bill No. 279, entitled "An act to create the Hale, Potter, Carson, Lipscomb, Childress, Midland, Stonewall and Howard land districts, and to amend sections 1 and 3 of an act entitled an act to create the Martin, Scurry, Crosby and Knox land districts, approved April 1, 1887,"

Have had the same under consideration, and instruct me to report it back to the Senate with the recommendation that it do pass.

All of which is respectfully submitted.

HARRISON,
Chairman.

Bill read first time.

By permission,
Senator Glasscock sent up the following bill:

A bill to be entitled "An act for the relief of John Ezelle."

Referred to Committee on Claims and Accounts.

On motion of Senator Pope,

Senate bill No. 208, a bill to be entitled "An act to require all railroad companies to keep and maintain permanently their general offices within the State of Texas, at certain places, and to keep all books, accounts, etc., at said offices, and to provide penalties for failing to comply therewith,"

Was laid before the Senate and read the second time with a favorable committee report.

Senator Pope moved to

Amend by striking out the word "Texas," in line 13.

Adopted.

Senator Pope moved to

Amend by striking out in line 7, section 2, the words "general attorney,"

and in line 9, same section, the words "assistant general freight agent."

Senator Kimbrough moved to adjourn till 10 o'clock to-morrow morning.

Lost.

Senator Pope's amendment was adopted.

Senator Glasscock moved to

Amend by adding to section 1, the following: "within this State."

Adopted.

Senator Pope moved to

Amend by adding to section 1: "And such railroads shall keep and maintain their machine shops and round-houses, or either, at such place or places as they may have contracted for a valuable consideration to keep them," and amend caption to correspond with this amendment.

Adopted.

Senator Seale moved the previous question.

Seconded.

The main question was ordered, and

The bill, as amended, was ordered engrossed.

On motion of Senator Seale,

The Senate adjourned till 10 o'clock to-morrow morning.

FORTY-FOURTH DAY.

SENATE CHAMBER,
AUSTIN, March 2, 1889.

Senate met pursuant to adjournment.

Lieutenant-Governor Wheeler in the chair.

Roll called.

Quorum present.

Prayer by the Chaplain, Dr. Smoot.

On motion of Senator Stephens,

The reading of the Journal of yesterday was dispensed with.

On motion of Senator Seale,

Senator Morris was excused for to-day, on account of sickness.

On motion of Senator Frank,

Senator Kimbrough was excused until Monday, on account of important business.

On motion of Senator Jarvis,

Senator Harrison was excused until Monday, on account of sickness.

PETITIONS AND MEMORIALS.

By Senator Maetze:

Memorial of fifty-five officers, merchants and professional men in Bell-